

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CONNECTICUT BANK OF	)	
COMMERCE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-762 SLR
	)	
THE REPUBLIC OF CONGO,	)	
	)	
Defendant;	)	
	)	
CMS NOMEKO CONGO INC.,	)	
	)	
Garnishee.	)	

**GARNISHEE CMS NOMEKO'S RESPONSE  
TO AF-CAP'S MOTION TO STAY BRIEFING SCHEDULE BASED  
UPON SETTLEMENT WITH JUDGMENT DEBTOR**

Garnishee CMS Nomeco Congo Inc. ("CMS Nomeco") submits this Response to the Motion to Stay Briefing Schedule Based Upon Settlement With Judgment Debtor filed by Af-Cap, Inc. ("Af-Cap") on March 2, 2007.

Pursuant to the directives of the Court at the conference held on January 18, 2007, and this Court's briefing Order dated February 9, 2007, the parties were directed to brief certain threshold legal issues raised by this garnishment action. Under the terms of the briefing Order, Af-Cap's Reply Brief is due today, March 5.

During the week of February 26, 2007, counsel for Af-Cap informed counsel for CMS Nomeco that Af-Cap and the Congo had settled the underlying debt and proposed a stipulation of dismissal of the garnishment action, with each party to bear its own costs. On February 28, 2007, counsel for CMS Nomeco informed counsel for Af-Cap that CMS Nomeco intends to pursue recovery of its fees and costs from Af-Cap, and that CMS Nomeco therefore

did not agree to the proposal for a stipulation of dismissal in which CMS Nomeco would give up its claims for attorney's fees and costs.

Af-Cap has now sought a stay of the briefing schedule "pending a final dismissal of this matter." In that motion, Af-Cap asserts that "CMS refuses to consent to dismissal," but fails to disclose the existence of issues relating to recovery of attorney's fees and costs. CMS Nomeco has no opposition to a stay of the March 5 deadline for the filing of Af-Cap's Reply Brief, pending further proceedings on Af-Cap's anticipated motion to dismiss in light of the settlement and CMS Nomeco's claims for attorney's fees and costs, but CMS Nomeco objects to the language in Af-Cap's proposed Order to the extent that it suggests that no further briefing on any issues will be necessary prior to final dismissal of this matter. CMS Nomeco respectfully submits that further briefing on the issues relating to CMS Nomeco's right to attorney's fees and costs will be appropriate. Nevertheless, CMS Nomeco agrees that there is no need at this time for Af-Cap to proceed with the filing of the Reply Brief due on March 5, 2007.

#### CONCLUSION

For the reasons set forth above, CMS Nomeco Congo Inc. has no opposition to a stay of Af-Cap's March 5, 2007 deadline for filing of a Reply Brief, pending further Orders of the Court.

Respectfully submitted,

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Dated: March 5, 2007

/s/ M. Duncan Grant

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